

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LONNIE GLEN SCHMIDT,

Petitioner,

v.

U.S. MARSHALS SERVICE,

Respondent.

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Civil Action No. **3:06-CV-1940-L**

ORDER

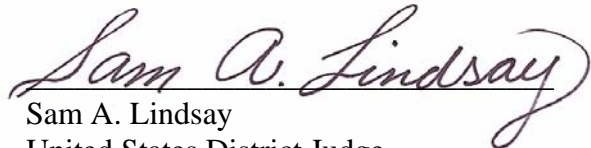
This is a habeas case brought under 28 U.S.C. § 2241. Pursuant to 28 U.S.C. § 636(b) and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On October 23, 2006, the Findings and Recommendation of the United States Magistrate Judge (“Report”) were filed. Petitioner filed his Objections to Findings and Recommendations of the United States Magistrate Judge (“Objections”) on November 8, 2006. Petitioner also filed an out-of-time Supplement to Objections and Recommendations of the United States Magistrate Judge on November 20, 2006 (“Supplement”). After making an independent review of the pleadings, file and record in this case and the magistrate judge’s Report, the court **determines** that the magistrate judge’s findings are correct.

Petitioner Schmidt, arrested by United States marshals in Fresno, California, on a contempt of court order, brought this petition to challenge his detention. This is the third time petitioner has challenged his detention in a habeas proceeding. *See Schmidt v. Joslin*, No. 3:05-CV-1449-P (N.D. Tex. Jul. 29, 2005), rec. adopted by Order (Aug. 11, 2005) (dismissed as frivolous); *Schmidt v.*

Joslin, No. 3:06-CV-731-B, 2006 WL 1499773 (N.D. Tex. May 31, 2006) (dismissed on res judicata grounds and also as frivolous). The court agrees with the magistrate judge's findings that the third petition is duplicative of the two earlier dismissed petitions. The magistrate judge's findings and recommendations are, therefore, **accepted** as those of the court. Accordingly, the court **overrules** Petitioner's Objections to Findings and Recommendations of the United States Magistrate Judge and **dismisses with prejudice** Petitioner's petition for the writ of habeas corpus.

Finally, Petitioner's Supplement to Objections and Recommendations of the United States Magistrate Judge demands a stay of all collection efforts against him, including his incarceration, based on his November 17, 2006, filing for bankruptcy protection in the Eastern District of California. To the extent that Petitioner's Supplement raises a new objection, the objection is **denied**, as the automatic stay provision does not apply to a prior-issued court order for contempt.

It is so ordered this 30th day of November, 2006.


Sam A. Lindsay
United States District Judge